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December 6, 2024

BY ELECTRONIC FILING

Honorable Margaret M. Garnett
United States District Judge
United States District Court
Southern District of New York
40 Foley Square, Room 2102
New York, New York 10007

Re: *Bueno v. Eurostars Hotel Company, S.L., et al.*, 1:21-cv-00535-MMG-RWL

Dear Judge Garnett:

We are counsel for the Defendants in this litigation. We write pursuant to Rule II(b)(2) of your Individual Rules and Practices respectfully to request the Court's leave to file a reply brief in excess of ten pages on Defendants' motion for summary judgment. The reason for our request follows.

For almost five years, the parties have been litigating Plaintiff's claim that the Defendants fired her on February 25, 2020, after allegedly learning just five days earlier that she was pregnant. This is the claim that Plaintiff articulated in her EEOC notice of charge of discrimination, her complaint, her amended complaint, her second amended complaint, and her proposed third amended complaint. Defendants' motion for summary judgment is based on the undisputed fact that the decision to terminate the Plaintiff was made before she claims to have told her supervisor she was pregnant, and that she therefore has not made out a *prima facie* case of pregnancy discrimination. To our surprise, in her opposition papers Plaintiff did not even address this argument, tacitly conceding that summary judgment on her pregnancy discrimination claims—the claims she has been pursuing since early 2020—is therefore warranted.

Instead, Plaintiff submitted papers arguing for the first time that the Defendants did not fire her for being pregnant, but rather because they knew she was undergoing IVF treatments (which the Defendants deny). Naturally, we will argue in our reply brief that this last-minute shift in the theory of her case is wholly inappropriate and cannot defeat the summary judgment against which Plaintiff has failed to raise disputed material facts. At the same time, however, we have no choice but to address her new theory of the case and new factual allegations. The

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Court's otherwise-reasonable limit of ten pages will not be sufficient to do that. We believe we can address the Plaintiff's new arguments in 15 pages, and respectfully ask the Court to grant us leave to file a reply brief of 15 pages.

Respectfully Submitted,



Brian C. Dunning

cc: Counsel for Plaintiff (via ECF)

Request GRANTED. Defendants may file a reply brief not to exceed 15 pages. The Clerk of Court is directed to terminate Dkt. No. 146.

SO ORDERED. Date 12/9/2024


HON. MARGARET M. GARNETT
U.S. DISTRICT JUDGE